

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA, : 15-CR-517 (WFK)
Plaintiff, :
-against- : United States Courthouse
ALI SALEH, : Brooklyn, New York
Defendant. : Tuesday, July 24, 2018
: 10:00 a.m.
-----X

TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING
BEFORE THE HONORABLE WILLIAM F. KUNTZ, JR.
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Government: RICHARD P. DONOGHUE, ESQ.
United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
BY: SARITHA KOMATIREDDY, ESQ.
MARGARET E. LEE, ESQ.
ASSISTANT UNITED STATES ATTORNEYS

For the Defendant: ANTHONY L. RICCO, ESQ.
20 Vesey Street
Suite 400
New York, New York 10007

STEVE ZISSOU & ASSOCIATES
42-40 Bell Boulevard
Suite 302
Bayside, New York 11361
BY: STEVEN ZISSOU, ESQ.

MICHAEL K. BACHRACH, ESQ.
224 West 30th Street
Suite 302
New York, New York 10001

Proceedings

2

A P P E A R A N C E S (C O N T I N U E D)

Court Reporter: DAVID R. ROY, RPR
225 Cadman Plaza East
Brooklyn, New York 11201
drroyofcr@gmail.com

Proceedings recorded by Stenographic machine shorthand,
transcript produced by Computer-Assisted Transcription.

P R O C E E D I N G S

--oo0oo--

(In open court.)

THE COURTROOM DEPUTY: Criminal cause for a
pleading, Docket Number 15-CR-517, USA versus Saleh.

Counsel, please come forward, state your
appearances for the record, and spell your first and last
names for the court reporter.

MS. KOMATIREDDY: Good morning, Your Honor,
Saritha Komatireddy for the United States. I'm joined by
Margaret Lee. My name is spelled S-A-R-I-T-H-A; last name,
K-O-M-A-T-I-R-E-D-D-Y.

THE COURT: Good morning, Counsel. You may be
seated.

MS. LEE: And my name is spelled M-A-R-G-A-R-E-T,
L-E-E. Good morning, Your Honor.

THE COURT: Good morning, Counsel. Please be
seated.

Proceedings

3

1 MR. RICCO: Yes, Your Honor, Anthony Ricco and
2 Michael Bachrach for Ali Saleh, who will be walking in
3 shortly. Anthony, A-N-T-H-O-N-Y; Ricco, R-I-C-C-O. Good
4 morning, Your Honor.

5 THE COURT: Good morning, sir.

6 MR. BACHRACH: Good morning, Your Honor,
7 Michael Bachrach; M-I-C-H-A-E-L, B-A-C-H-R-A-C-H.

8 THE COURT: Good morning, sir.

9 MR. ZISSOU: Good morning, Your Honor,
10 Steve Zissou; S-T-E-V-E, Z-I-S-S-O-U.

11 THE COURT: Good morning, sir.

12 And do we have an interpreter here; do we need an
13 interpreter for this?

14 THE COURTROOM DEPUTY: No, Your Honor.

15 MR. RICCO: No, Your Honor.

16 THE COURT: Okay. Thank you. You may be seated,
17 Counsel.

18 MR. RICCO: Yes, sir. Thank you.

19 THE COURT: And we're waiting for the defendant to
20 be brought in.

21 (Pause in proceedings.)

22 MR. RICCO: Your Honor, can we have just one brief
23 moment?

24 THE COURT: Yes, you may have one moment --

25 MR. RICCO: Thank you, Your Honor.

Proceedings

4

1 THE COURT: -- with your client, of course.

2 MR. RICCO: Thank you very much.

3 THE COURT: Of course.

4 (Pause in proceedings.)

5 MR. RICCO: We're ready to proceed, Your Honor.

6 THE COURT: Thank you very much, Mr. Ricco.

7 Mr. Jackson, would you please swear in the
8 defendant.

9 THE COURTROOM DEPUTY: Yes, Your Honor.

10 Sir, would you please stand and raise your right
11 hand?

12 (Pause in proceedings.)

13 THE COURTROOM DEPUTY: Can you -- please raise
14 your right hand.

15 MR. RICCO: He's actually...

16 (Pause in proceedings.)

17 MR. RICCO: Could I just see the Government for
18 one quick second, Your Honor?

19 THE COURT: Why?

20 MR. RICCO: No. I'll take that back, Your Honor.
21 The defendant is prepared to affirm.

22 THE COURT: Yes, it will be swear or affirm.

23 MR. RICCO: Yes.

24 THE COURT: All right.

25 MR. RICCO: Okay.

Proceedings

5

1 THE COURT: We will ask him to raise his right
2 hand.

3 (Pause in proceedings.)

4 THE COURT: Let's do this again. Would you please
5 raise your right hand, sir; can you do that?

6 Raise your right hand.

7 Do you solemnly swear or --

8 THE DEFENDANT: No, I don't swear --

9 THE COURT: -- affirm --

10 THE DEFENDANT: No, I do not swear.

11 THE COURT: Do you solemnly affirm that the
12 testimony you are about to give is true --

13 THE DEFENDANT: Yes.

14 THE COURT: -- honest, and accurate?

15 THE DEFENDANT: Yes, yes.

16 THE COURT: All right. Please be seated.

17 **A L I S A L E H,**

18 called as a witness having been first duly
19 affirmed, was examined and testified as
20 follows:

21 THE COURT: Mr. Saleh, I'm going to begin by
22 asking you a few questions about your background, so use
23 your microphone when you respond to my questions. All
24 right?

25 THE DEFENDANT: Yes.

Proceedings

6

1 THE COURT: Good.

2 How old are you?

3 THE DEFENDANT: Twenty-five.

4 THE COURT: When were you born?

5 THE DEFENDANT: '92.

6 THE COURT: Where were you born?

7 THE DEFENDANT: Jamaica, Queens.

8 THE COURT: Sir, describe your educational
9 background.

10 THE DEFENDANT: I got through college.

11 THE COURT: What college?

12 THE DEFENDANT: City of LaGuardia.

13 THE COURT: And when did you go to City of
14 LaGuardia?

15 THE DEFENDANT: I have no idea.

16 MR. RICCO: Excuse me --

17 THE COURT: You don't know what -- excuse me.
18 You don't know what year you went to school?

19 THE DEFENDANT: No, I do not.

20 THE COURT: Okay. Have you taken any drugs, any
21 medicine, any pills, or consumed any alcohol in the past
22 24 hours?

23 THE DEFENDANT: No.

24 THE COURT: Do you understand what is happening
25 today?

Proceedings

7

1 THE DEFENDANT: Yes.

2 THE COURT: Defense Counsel, do you have any doubt
3 as to the defendant's competence to proceed at this time?

4 MR. RICCO: None whatsoever, Your Honor.

5 THE COURT: Madam Prosecutor, do you have any
6 doubt as to the defendant's competence to proceed at this
7 time?

8 MS. KOMATIREDDY: No, Your Honor.

9 THE COURT: The Court hereby finds based on the
10 defendant's representations and the representations of all
11 Counsel of Record that the defendant is competent.

12 The Court has marked the Superseding Indictment S1
13 as Court Exhibit 1 for identification.

14 May I have a motion to admit it into evidence from
15 the Government?

16 MS. KOMATIREDDY: The Government so moves.

17 THE COURT: Any objection?

18 MR. RICCO: No, sir.

19 THE COURT: The Superseding Indictment S1 is now
20 entered into evidence as Court 1.

21 (Court's Exhibit S1 received in evidence.)

22 THE COURT: Does the Government waive the reading
23 of the Superseding Indictment?

24 MS. KOMATIREDDY: We do, Your Honor.

25 THE COURT: Does the defense waive the reading of

Proceedings

8

1 the Superseding Indictment?

2 MR. RICCO: Yes, Your Honor. Thank you.

3 THE COURT: All right. Thank you. It's admitted
4 and the reading is waived.

5 Now, do the parties have a signed copy of the plea
6 agreement to hand up to the Court?

7 MR. RICCO: Yes.

8 THE COURT: Hand it to Mr. Jackson, please, my
9 courtroom deputy.

10 THE COURTROOM DEPUTY: Thank you.

11 MR. BACHRACH: Thank you.

12 THE COURTROOM DEPUTY: It's signed.

13 THE COURT: I have a copy of the signed plea
14 agreement in this case. It has been marked as
15 Court Exhibit 2 for identification.

16 May I have a motion from the Government to have
17 Court 2 admitted into evidence, please.

18 MS. KOMATIREDDY: The Government so moves.

19 THE COURT: Any objection?

20 MR. RICCO: No, sir.

21 THE COURT: It's admitted.

22 (Court's Exhibit 2 received in evidence.)

23 THE COURT: The plea agreement reads as follows --
24 it's in evidence as Court 2. "Pursuant to *Rule 11 of the*
25 *Federal Rules of Criminal Procedure*, the United States

Proceedings

9

1 Attorney's Office for the Eastern District of New York, 'the
2 Office,' and Ali Saleh, 'the Defendant,' agree to the
3 following:

4 One: The defendant will plead guilty to Count 2
5 and Count 3 of the above-captioned Superseding Indictment
6 charging violations of *18 United States, Code 2339(b)*. The
7 counts carry the following statutory penalties.

8 Count 2: Attempt to Provide Material Support or
9 Resources to a Designated Foreign Terrorist Organization:

10 (A) Maximum term of imprisonment 15 years,
11 *18 U.S.C., Section 2339(b)(A)(1)*;

12 (B) Minimum term of imprisonment none, *18 U.S.C.,*
13 *Section 2339(b)(A)(1)*;

14 (C) Maximum supervised release term, life. The
15 following term of imprisonment: If the condition of release
16 is violated, the defendant may be sentenced up to two years
17 without credit for pre-release imprisonment or time
18 previously served on postrelease supervision, *18 U.S.C.,*
19 *Section 2339(b)(A)(1), 385, 3583(b), (e) and (j)*;

20 (D) Maximum fine \$250,000, *18 U.S.C.,*
21 *Section 3571(b)(3)*;

22 Restitution, not applicable;

23 (F) \$100 special assessment, *18 U.S.C.,*
24 *Section 3013*.

25 Count 3: Attempt to Provide Material Support or

Proceedings

10

1 Resources to a Designated Terrorist Organization:

2 (A) Maximum term of imprisonment, 20 years,
3 *18 U.S.C., Section 2339(b)(A)(1)*;

4 (B) Minimum term of imprisonment, none,
5 *18 U.S.C., Section 2339(b)(A)(1)*;

6 (C) Maximum supervised release term, life. The
7 following term of imprisonment: If a condition of release
8 is violated, the defendant may be sentenced to up to two
9 years without credit for prerelease imprisonment or time
10 previously served on postrelease supervision, *18 U.S.C.,*
11 *Sections 2339(b)(A)(1), 3583(b), (e) and (j)*;

12 (D) Maximum fine, \$250,000, *18 U.S.C.,*
13 *Section 3571(b)(3)*;

14 Restitution, not applicable;

15 (F) \$100 special assessment, *18 U.S.C.*
16 *Section 3013.*

17 The sentences imposed on these counts may run
18 consecutively.

19 (2) The defendant understands that although the
20 imposition of a sentence in accordance with the
21 United States Sentencing Guidelines is not mandatory, the
22 guideline are advisory, and the Court is required to
23 consider: (A) Applicable guideline provision, as well as
24 other factors enumerated in *18 U.S.C., Section 3553(a)*, to
25 arrive at an appropriate sentence in this case.

Proceedings

11

1 The Office will advise the Court and the probation
2 department of information relevant to sentencing, including
3 criminal activity engaged in by the defendant, and such
4 information may be used by the Court in determining the
5 defendant's sentence. See *18 U.S.C., Section 3661*. Quote,
6 "No limitation shall be placed on the information concerning
7 the background, character, and conduct of the person
8 convicted of an offense which a Court of the United States
9 may receive and consider for the purpose of imposing an
10 appropriate sentence.", close quote.

11 The Office estimates the likely adjusted offense
12 level under the guideline to be 40, which is predicated on
13 the following guideline calculation, base offense level,
14 *U.S.S.G. Section 2M5.3(a)26*. Plus revision of material
15 support or resources with the intent, knowledge, or reason
16 to believe they were to be used to commit or assist in the
17 commission of a violent act, *U.S.S.G. Section 2M5.3(b)18*
18 plus two; plus, terrorism enhancement, *U.S.S.G. 3A1.4(a)*
19 plus 12, totals 40.

20 If the defendant clearly demonstrates acceptance
21 of responsibility through allocution and subsequent conduct
22 prior to the imposition of sentence, a two-level reduction
23 will be warranted pursuant to *U.S.S.G., Section 3E1.1(a)*
24 resulting in an offense -- adjusted offense level of 38 and
25 a range of imprisonment of 360 months to life, assuming that

Proceedings

12

1 the defendant falls in a Criminal History Category 6.

2 Furthermore, the defendant has accepted
3 responsibility as described above to the satisfaction of the
4 Office, and if the defendant pleads guilty on or before
5 August 1st of 2018, an additional one-level reduction will
6 be awarded pursuant to *U.S.S.G., Section 3E.1.B*, resulting
7 in an adjusted offense level of 36. This level carries a
8 range of imprisonment of 360 months to life, assuming that
9 the defendant falls within Criminal History Category 6.
10 However, because of the statutory maximum sentence, the
11 effective guidelines range is 360 to 420 months.

12 The defendant stipulates to the above guidelines
13 calculation. The defendant also consents to a life term of
14 supervised release. The defendant also agrees to undergo a
15 threat assessment by a qualified professional selected by
16 the Office prior to sentencing, if in the office's judgment
17 such a threat assessment is warranted.

18 Three: The guidelines estimate set forth in
19 Paragraph 2 is not binding on the Office, Probation
20 Department, or the Court if the guidelines offense level
21 advocated by the Office is determined by the probation
22 department or the Court if for any reason, including an
23 error in the estimate, is different from the estimate, the
24 defendant will not be entitled to withdraw the plea, and
25 the Government will not be deemed to have breached this

Proceedings

13

1 agreement.

2 Four: The defendant agrees not to file an appeal
3 or otherwise challenge by petition, pursuant *28 U.S.C.*,
4 *Section 2255* or any other provision, the conviction or
5 sentence in the event that the Court imposes a term of
6 imprisonment of 420 months or below. This waiver is binding
7 without regard to the sentencing analysis used by the Court.
8 The defendant waives all defenses based on the statute of
9 limitations and venue with respect to any prosecution that
10 is not time barred on the basis this agreement is signed in
11 the event that: (A) The defendant's conviction is later
12 vacated for any reason; (B) The defendant violates this
13 agreement; or (C) The defendant's plea is later withdrawn.

14 Nothing in the foregoing waiver of appellate and
15 collateral review of rights shall preclude the defendant
16 from raising a claim of ineffective assistance of counsel in
17 an appropriate forum. The defendant waives any right to
18 additional disclosure from the Government in connection with
19 the guilty plea. The defendant agrees that with respect to
20 all charges referred to in Paragraphs 1 and 5(a), he is not
21 a prevailed party within the meaning of the *Hyde Amendment*,
22 *18 U.S.C.*, *Section 3006(a)*, and will not file any claim
23 under that law. The defendant agrees to pay the special
24 assessment by check payable to the Clerk of the Court at or
25 before sentence.

Proceedings

14

1 Five: The Office agrees that: (A) No further
2 criminal charges will be brought against the defendant or
3 attempting to provide material support and resources to the
4 Islamic State of Iraq and the Levant, as charged in the
5 Superseding Indictment and being understood that this
6 agreement does not bar the use of such conduct as a
7 predicate act or is the basis for a sentencing enhancement
8 in a subsequent prosecution, including, but not limited to,
9 a prosecution pursuant to *18 U.S.C., Sections 1961,*
10 *et sequentia*, and at the time of sentence it will move to
11 dismiss the remaining counts of the Superseding Indictment
12 and any underlying indictment with prejudice, and based upon
13 the information now known to the Office. It will (B), take
14 no position concerning where within the guidelines range
15 determined by the Court the sentence should fall; and (C),
16 make no motion for an upward departure under the sentence
17 guidelines. If information relevant to sentencing is
18 determined by the Office becomes known by the Office after
19 the date of this agreement, the Office will not be bound by
20 Paragraph 5(b) and 5(c).

21 Should it be judged by the Office that the
22 defendant has violated any provision of this agreement, the
23 defendant will not be released from his plea of guilty, but
24 this Office will be released from its obligations under this
25 agreement, including, but not limited to: (A), moving for

Proceedings

15

1 the additional one-level downward adjustment for timely
2 acceptance of responsibility described in Paragraph 2 above;
3 and (B), the provisions of Paragraphs 5(a) through (c).

4 Six: This agreement does not bind any Federal,
5 State, or Local Prosecuting Authority, other on than the
6 Office, and does not prohibit the Office from initiating or
7 prosecuting any civil or administrative proceeding directly
8 or indirectly involved with the defendant.

9 Seven: Apart from any written proffer agreement,
10 if applicable, no promises, agreements, or conditions have
11 been entered into by the parties, other than those set forth
12 in this agreement, and none will be entered into unless
13 memorialized in writing and signed by all parties apart from
14 any written proffer agreements, if applicable. This
15 agreement supersedes all prior promises, agreements, or
16 conditions between the parties. To become effective, this
17 agreement must be sign by all signatories listed below."

18 Dated Brooklyn, New York, July 24th, 2018, signed
19 by Saritha Komatireddy, Margaret Lee, Alexander Mindlin,
20 Assistant United States Attorneys, on behalf of Richard P.
21 Donoghue, the United States Attorney for the
22 Eastern District of New York, who by Richard M. Tucker is
23 the Supervising Assistant U.S. Attorney. It's signed by the
24 Defendant Ali Saleh, and above his signature, it says, "I
25 have read the entire agreement and discussed it with my

Proceedings

16

1 attorney. I understand all of its terms and am entering
2 into it knowingly and voluntarily." And it's been approved
3 as to form by Defense Counsel, Steven Zissou, Anthony Ricco,
4 Michael Bachrach, Counsel to the Defendant.

5 Have I read the plea agreement, which is in
6 evidence as Court 2, accurately?

7 MS. KOMATIREDDY: Yes, Your Honor.

8 MR. RICCO: Yes, Your Honor, you read it --

9 THE COURT: Thank you, Mr. Jackson.

10 Thank you very much.

11 Mr. Saleh, unless Counsel wishes to be heard or
12 has an objection, the Court believes we may now turn to the
13 final procedures for taking your plea in this case.

14 Your attorneys has advised this Court that you
15 wish to plead guilty to Count 2 and Count 3 of the
16 Superseding Indictment, S1, pursuant to the plea agreement
17 which I have just read.

18 Do you need me to read the plea agreement to you
19 again?

20 THE DEFENDANT: No.

21 THE COURT: Do you need me to read the
22 Superseding Indictment out loud?

23 THE DEFENDANT: No. No.

24 THE COURT: I say again, sir, this is a serious
25 decision and I must be certain that you make and understand

Proceedings

17

1 your rights and the consequence of your plea.

2 Do you understand that having affirmed to tell the
3 truth to this Court, you must do so. If you were to lie to
4 this Court deliberately in response to any question I ask
5 you, you would face further criminal charges of perjury, or
6 making a false statement.

7 Do you understand, sir?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. If you need me to repeat
10 anything, you have only to ask, sir. It is important that
11 you understand everything that is going on in these
12 proceedings here today.

13 Is that clear to you, sir?

14 THE DEFENDANT: Yes.

15 THE COURT: Mr. Saleh, I must be certain that
16 whatever decision you make today, you make with a clear
17 head, so I am going to ask you some questions about your
18 health.

19 Are you presently or have you recently been under
20 the care of a doctor, psychiatrist, physician, or
21 psychologist of any kind for any reason?

22 THE DEFENDANT: Recently?

23 THE COURT: Recently.

24 THE DEFENDANT: No.

25 THE COURT: In the past 24 hours, have you taken

Proceedings

18

1 any pills, drugs, or medicine of any kind?

2 THE DEFENDANT: No.

3 THE COURT: Have you ever been hospitalized of
4 treated for any drug-related problem?

5 THE DEFENDANT: No.

6 THE COURT: Have you ever participated in a
7 Court-ordered drug-treatment program?

8 THE DEFENDANT: No.

9 THE COURT: In the past 24 hours, have you
10 consumed any alcohol?

11 THE DEFENDANT: No.

12 THE COURT: Have you ever been hospitalized or
13 treated for any alcohol-related problems?

14 THE DEFENDANT: No.

15 THE COURT: Have you ever participated in a
16 Court-ordered alcohol-treatment program?

17 THE DEFENDANT: No.

18 THE COURT: Is your mind clear as you sit here
19 today?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand everything being
22 said to you?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. Defense Counsel, have you
25 discussed the question of the guilty plea with your client,

Proceedings

19

1 sir?

2 MR. RICCO: Yes, I have, Your Honor.

3 THE COURT: In your view, Mr. Ricco, does he
4 understand the rights he would be waiving by pleading
5 guilty?

6 MR. RICCO: Yes, sir, he does.

7 THE COURT: Mr. Ricco, do you have any question as
8 to the competence of your client to proceed today?

9 MR. RICCO: None whatsoever.

10 THE COURT: Mr. Saleh, are you satisfied with the
11 assistance your attorneys have given you thus far in your
12 case?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you believe that you have received
15 the effective assistance counsel?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: If you believe you have not received
18 the effective assistance of counsel, you have the right to
19 appeal on that basis.

20 Mr. Ricco, do you and Mr. Zissou believe you need
21 more time to discuss the question of the guilty plea with
22 your client?

23 MR. RICCO: No, Your Honor, we do not.

24 THE COURT: Mr. Saleh, I previously offered to
25 read Count 2 and Count 3 of the Superseding Indictment out

Proceedings

20

1 loud to you. Again, I ask you, do you need me to read them
2 out loud to you?

3 THE DEFENDANT: No.

4 THE COURT: Now, Mr. Saleh, you have a right to
5 plead not guilty. No one can be forced to plead guilty.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: If you plead not guilty or if you
9 persist in your plea of not guilty, you have a right
10 under the Constitution and the Laws of the United States of
11 America to a speedy and a public trial before a jury of your
12 peers with the assistance of your counsel.

13 Do you understand?

14 THE DEFENDANT: Yes.

15 THE COURT: And at any trial, sir, you would be
16 presumed to be innocent. You would not have to prove that
17 you were innocent. This is because under our system of law,
18 it is the Government that must come forward with proof that
19 establishes beyond a reasonable doubt that you are guilty of
20 the crime charged. If the Government fails to meet this
21 burden of proof, the jury would have the duty to find you
22 not guilty.

23 Do you understand?

24 THE DEFENDANT: Yeah.

25 THE COURT: At trial, witnesses for the Government

Proceedings

21

1 would have to come here to this courtroom and testify in
2 your presence. Your counsel would have the right to
3 cross-examine these witnesses. Your counsel could raise
4 legal objections to the evidence the Government sought to
5 offer against you. Your lawyer could also offer evidence on
6 your behalf if you thought there was evidence that might
7 help you in your case. Your lawyer could compel witnesses
8 to come to court and testify in your defense if you thought
9 that would help your case.

10 Do you understand?

11 THE DEFENDANT: Yes.

12 THE COURT: At a trial, sir, you would have a
13 right to testify in your own behalf if you wished to do so.
14 On the other hand, you could not be forced to be a witness
15 at your trial. This is because under the Constitution and
16 Laws of the United States, no person can be compelled to be
17 a witness against himself. If you wish to go to trial but
18 chose not to testify, the Court would instruct the jury that
19 it could not hold that against you.

20 Do you understand sir?

21 THE DEFENDANT: Yes.

22 THE COURT: If instead of going to trial, sir, you
23 elect to plead guilty to the crime charged, and if I accept
24 your guilty plea, you will be giving up your right to a
25 trial and all the other rights that I have just discussed.

Proceedings

22

1 There will be no trial in this case. There will be no
2 appeal on the question of whether you did or did not commit
3 the offenses charged in Counts 2 and 3 of the
4 Superseding Indictment. So in Paragraph 4 of your plea
5 agreement, you could appeal or otherwise challenge your
6 conviction or sentence only if the sentence I impose
7 exceeded 420 months of imprisonment. If I thereafter impose
8 a sentence that exceeded 420 months of imprisonment, you
9 would have the right to appeal, or otherwise challenge that
10 sentence, to a higher court.

11 Do you understand that, sir?

12 THE DEFENDANT: Yes.

13 THE COURT: In summary, sir, you are waiving any
14 right to appeal or otherwise challenge your conviction or
15 sentence if this Court imposes a sentence at or below 420
16 months of imprisonment; you violate this agreement and file
17 an appeal resulting in your sentence being vacated, or set
18 asides or if you otherwise challenge your conviction or
19 sentence, you could very well face a much greater sentence
20 than the one you receive under this plea agreement,
21 specifically, a sentence of up to 15 years of imprisonment
22 for Count 2, and up to 20 years of imprisonment for Count 3,
23 which is the statutory maximum provided by the Congress of
24 the United States.

25 Do you understand, sir?

Proceedings

23

1 THE DEFENDANT: Yes.

2 THE COURT: So to be crystal clear, if I were to
3 sentence you to above 420 months, regardless of how I do it,
4 you would have a right to appeal or otherwise challenge.

5 If you could no longer at that point afford the
6 fees and expenses associated with the appeal or challenge,
7 including attorneys's fees, you can apply to this Court for
8 the appointment of Counsel, and the fees and expenses would
9 be paid at the prescribed rates set by the Government
10 pursuant to the authority of the Criminal Justice Act.

11 Do you understand, sir?

12 THE DEFENDANT: Yes.

13 THE COURT: Nothing in the plea agreement,
14 however, prevents you from raising a claim of ineffective
15 assistance of counsel at an appropriate time and in an
16 appropriate forum.

17 Do you understand?

18 THE DEFENDANT: Yes.

19 THE COURT: If you do plead guilty, I will have to
20 ask you certain questions about what you did and where you
21 did it to satisfy myself that you are, in fact, guilty of
22 the charges contained in Counts 2 and 3 of the
23 Superseding Indictment. You will have to answer my
24 questions and to acknowledge your guilt truthfully. If you
25 do this, you will be giving up your right not to incriminate

Proceedings

24

1 yourself.

2 Do you understand?

3 THE DEFENDANT: Yes.

4 THE COURT: Mr. Saleh, are you willing to give up
5 your right to a trial and all the other rights I have just
6 discussed with you?

7 THE DEFENDANT: Yes.

8 THE COURT: Is there any other agreement, other
9 than the written plea agreement and the written proffer
10 agreement, if applicable, that has been reached or made with
11 you in order to get you to plead guilty?

12 MR. RICCO: Your Honor, can you repeat the last
13 sentence?

14 THE COURT: Yes.

15 Is there any other agreement, other than the
16 written plea agreement and written proffer agreements, if
17 applicable, that have been reached or that have been made
18 with you in order to get you to plead guilty?

19 THE DEFENDANT: No.

20 THE COURT: Sir, do you understand the
21 consequences of pleading guilty to Counts 2 and 3 of the
22 Superseding Indictment in terms of incarceration?

23 THE DEFENDANT: Yes.

24 THE COURT: I'm going to take you back to the plea
25 agreement and discuss with you some important information

Proceedings

25

1 relative to sentencings.

2 Paragraph 1 of the agreement sets out the
3 statutory terms you face. These are the penalties written
4 directly by Congress for violation of the statutes that you
5 are charged with violated today. For Count 2, you face a
6 minimum term of imprisonment of zero years and a maximum
7 term of imprisonment of 15 years.

8 Do you understand?

9 THE DEFENDANT: Yes.

10 THE COURT: Count 3, you face a minimum term of
11 imprisonment of zero years and a maximum term of
12 imprisonment of 20 years. The sentence imposed on Count 3
13 may run consecutively to the sentence imposed on Count 2,
14 sir.

15 Do you understand?

16 THE DEFENDANT: Yes.

17 THE COURT: For both counts you face a maximum
18 supervised release term of life following any term of
19 imprisonment. In Paragraph 2 of your plea agreement, you
20 consent to a supervised release term of life.

21 Do you understand?

22 THE DEFENDANT: Yes.

23 THE COURT: For both counts, sir, if you violate a
24 condition of release, you may be sentenced to up to two
25 years of imprisonment without credit for prerelease from

Proceedings

26

1 prison or time previously served on postrelease supervision.

2 Do you understand, sir?

3 THE DEFENDANT: Yes.

4 THE COURT: For both counts you face a maximum
5 fine of \$250,000.

6 Do you understand?

7 THE DEFENDANT: Yes.

8 THE COURT: You face a mandatory special
9 assessment of \$100, which I am required by law to impose in
10 all cases per person per count.

11 Do you understand?

12 THE DEFENDANT: Yes.

13 THE COURT: Mr. Saleh, if it were to be found that
14 you were not a United States Citizen, you could face the
15 possibility and removal from this country.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Mr. Saleh, this is a sentencing
19 guidelines case, so in sentencing you, the Court will have
20 to consider certain guidelines. The guidelines do not
21 control the Court, but they inform the Court.

22 Has Defense Counsel discussed the sentencing
23 guidelines with the defendant?

24 MR. RICCO: Yes, sir.

25 THE COURT: In your view, does he understand them,

Proceedings

27

1 sir?

2 MR. RICCO: Yes, Your Honor.

3 THE COURT: Thank you.

4 Mr. Saleh, is that correct, has Counsel discussed
5 the sentencing guidelines with you?

6 THE DEFENDANT: Yes.

7 THE COURT: Sir, with respect to sentencing, the
8 Court will have to consider certain factors about you in
9 Counts 2 and 3 of the Superseding Indictment. That
10 inevitably will lead this Court to a guidelines sentencing
11 range. The Court is not required to sentence you within
12 that range. This Court is empowered to impose a sentence
13 which is less than, equal to, or greater than that provided
14 by the guidelines. But in all cases, including this one,
15 this Court must, and this Court will consult the applicable
16 guidelines sentencing range.

17 Before the Court imposes sentence, the Court will
18 receive a report prepared by the probation department which
19 will recommend a particular sentence to the Court. You and
20 your lawyer have the opportunity to see that report. If you
21 think that report is mistaken, incomplete, or simply wrong
22 in any way, you will have the opportunity to bring that to
23 the attention of the Court.

24 Mr. Saleh, do you have any questions for the
25 Court?

Proceedings

28

1 THE DEFENDANT: No.

2 THE COURT: Defense Counsel, do you have any
3 questions for the Court?

4 MR. RICCO: No, sir.

5 THE COURT: Is there anything else Defense Counsel
6 would like the Court to address?

7 MR. RICCO: No, Your Honor. Thank you.

8 THE COURT: Does the Assistant United States
9 Attorney have any questions for the Court?

10 MS. KOMATIREDDY: No, Your Honor.

11 THE COURT: Is there anything else the Assistant
12 United States Attorney would like the Court to address at
13 this time?

14 MS. KOMATIREDDY: No, Your Honor.

15 THE COURT: Defense Counsel, do you know of any
16 reason why your client should not enter a plea of guilty to
17 Count 2 and Count 3 of the Superseding Indictment?

18 MR. RICCO: No factual, legal reason why not,
19 Your Honor.

20 THE COURT: Are you aware of any viable legal
21 defense to those charges?

22 MR. RICCO: Yes, Your Honor.

23 THE COURT: What are the viable legal defenses
24 that you're aware of?

25 MR. RICCO: Other than a plea of not guilty,

Proceedings

29

1 Your Honor.

2 THE COURT: Other than that?

3 MR. RICCO: None.

4 THE COURT: Thank you.

5 Mr. Saleh, are you ready to plead?

6 THE DEFENDANT: Yes.

7 THE COURT: How do you plead to Count 2 of the
8 Superseding Indictment, S1, charging a violation of
9 18 U.S.C., Section 2339(b)(A)(1), guilty or not guilty?

10 THE DEFENDANT: Guilty.

11 THE COURT: How do you plead to Count 3 of the
12 Superseding Indictment, S1, charging a violation of
13 18 U.S.C., Section 2339(b)(A)(1), guilty or not guilty?

14 THE DEFENDANT: Guilty.

15 THE COURT: Are you making this plea of guilty
16 voluntarily?

17 THE DEFENDANT: Yes.

18 THE COURT: Are you making this plea of guilty of
19 your own free will?

20 THE DEFENDANT: Yes.

21 THE COURT: Has anyone threatened you to get you
22 to plead guilty?

23 THE DEFENDANT: No.

24 THE COURT: And has anyone forced you to plead
25 guilty?

Proceedings

30

1 THE DEFENDANT: No.

2 THE COURT: Other than your agreement with the
3 Government, has anyone made you any promise that caused you
4 to plead guilty?

5 THE DEFENDANT: No.

6 THE COURT: Has anyone made you a promise about
7 the sentence that you will receive from this Court in this
8 case?

9 THE DEFENDANT: No.

10 THE COURT: Mr. Saleh, please describe briefly in
11 your own words what you did to commit the offense charged in
12 Count 2 and in Count 3 of the Superseding Indictment and
13 where you did it.

14 THE DEFENDANT: Count 2, I sent money to someone
15 in October 2014 in the County of Queens to join ISIS.

16 THE COURT: Mr. Saleh, in or about October of 2014
17 within the Eastern District of New York, and elsewhere, did
18 you, together with others, knowingly and intentionally
19 attempt to provide material support and resources as defined
20 in *Title 18 of the United States Code, Section 2339(a)(B)*,
21 including personnel, to a foreign terrorist organization, to
22 wit, the Islamic State of Iraq and the Levant?

23 Did you do that?

24 THE DEFENDANT: Yes.

25 THE COURT: With respect to Count 3, sir, attempt

Proceedings

31

1 to provide material support to a foreign terrorist
2 organization. In or about and between July of 2015 and
3 August of 2015, both dates being approximate and inclusive,
4 did you within the Eastern District of New York, and
5 elsewhere, together with others knowingly and intentionally
6 attempt to provide material support or resources as defined
7 in *Title 18, under the United States Code,*
8 *Section 2339(a)(B)*, including personnel, including yourself
9 to a foreign terrorist organization, to wit, the Islamic
10 State of Iraq and the Levant?

11 Did you do that?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. Is there anything else that
14 the Government would like for me to ask the defendant at
15 this time?

16 MS. KOMATIREDDY: Yes, Your Honor. We would ask
17 for the Court to ask questions as to the conduct in Count 2,
18 specifically that the defendant acknowledge that when he
19 sent money, he sent \$500 to an individual overseas knowing
20 that that individual wanted to join ISIS.

21 THE COURT: Did you send \$500 to an individual
22 overseas knowing that that person wanted to join ISIS?

23 THE DEFENDANT: Yes.

24 MS. KOMATIREDDY: And also knowing that ISIS is a
25 foreign terrorist organization.

Proceedings

32

1 THE DEFENDANT: Yes.

2 THE COURT: And did you know it at the time you
3 sent the money -- or attempted to send the money?

4 THE DEFENDANT: (No audible response.)

5 THE COURT: Did you know that?

6 THE DEFENDANT: Yes.

7 MS. KOMATIREDDY: And that the money was
8 specifically to facilitate that individual's travel to Syria
9 to join ISIS?

10 THE COURT: Did you know that it was to
11 specifically facilitate the travel of that individual to
12 Syria to join ISIS?

13 THE DEFENDANT: Yes.

14 MS. KOMATIREDDY: And with respect to Count 3,
15 Your Honor, we would ask that the defendant confirm that he
16 attempted to provide himself by traveling to the Middle East
17 to join ISIS?

18 THE COURT: Did you attempt to join ISIS in the
19 Middle East by traveling there yourself --

20 THE DEFENDANT: Yes.

21 THE COURT: -- personally?

22 MS. KOMATIREDDY: And that, again, during that
23 timeframe --

24 THE COURT: I'm sorry. I didn't hear the answer.

25 THE DEFENDANT: Yes.

Proceedings

33

1 THE COURT: Go ahead.

2 MS. KOMATIREDDY: And that, again, during that
3 timeframe where you did so July 2015 and August of 2015, you
4 knew that ISIS was a foreign terrorist organization?

5 THE COURT: Did you know during the time period
6 that's been referred to by Counsel, that ISIS was a
7 terrorist organization?

8 THE DEFENDANT: Yes.

9 MS. KOMATIREDDY: And that among those attempts,
10 one of the attempts occurred as he was attempting to depart
11 for the Middle East from John F. Kennedy Airport, which is
12 in the Eastern District of New York.

13 THE COURT: Did you attempt to depart from
14 John F. Kennedy Airport here in the Eastern District of
15 New York for the purpose of joining ISIS in the Middle East,
16 sir?

17 THE DEFENDANT: Yes.

18 MS. KOMATIREDDY: That's all from the Government,
19 Your Honor. Thank you so much.

20 THE COURT: Thank you.

21 All right. Is there anything else from the
22 defense counsel?

23 MR. RICCO: No, Your Honor.

24 THE COURT: Does the defendant have anything he
25 would like to say to the Court.

Proceedings

34

1 MR. RICCO: No, thank you.

2 THE COURT: No. Does the defendant have anything
3 he would like to say --

4 MR. RICCO: Oh, I'm sorry.

5 THE COURT: -- to the Court?

6 THE DEFENDANT: No.

7 MR. RICCO: My apology, Your Honor.

8 THE COURT: Based on the information provided to
9 this Court, I find that the defendant is acting voluntarily.
10 I find that the defendant fully understands the charges. I
11 find that the defendant fully understands his rights, and I
12 find the defendant fully understands the consequences of his
13 plea. The Court finds, moreover, there is a factual basis
14 for his plea. I, therefore, accept the defendant's plea of
15 guilty to Counts 2 and 3 of the Superseding Indictment, S1,
16 charging violations of *18 U.S.C., Section 2339(b)(A)(1)*.

17 I hereby order the probation department to provide
18 the presentence investigation report within six months from
19 today's date, which is to say on or before January 24th of
20 2019.

21 Is there anything further that the prosecution
22 wishes to say today?

23 MS. KOMATIREDDY: No, Your Honor.

24 THE COURT: Anything further that Defense Counsel
25 wishes to say?

Proceedings

35

1 MR. RICCO: No, Your Honor. Other than I would
2 like to be present during the interview, and I'll get in
3 touch with Probation.

4 THE COURT: Of course. We'll make that happen.

5 Is there anything else that the defendant would
6 like to say to the Court today?

7 THE DEFENDANT: No.

8 THE COURT: Thank you. The court is adjourned.
9 Thank you very much.

10 MR. RICCO: Thank you very much, Your Honor.

11 THE COURT: Thank you.

12 (Matter concluded.)

13

14 --oo0oo--

15

16

17

18

19 *I (we) certify that the foregoing is a correct transcript*
20 *from the record of proceedings in the above-entitled matter.*

20

21

/s/ David R. Roy
DAVID R. ROY

October 24, 2021
Date

22

23

24

25